

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DANIEL JAMES GRAY

Plaintiff,

v.

SHARON WEBB, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:20-CV-121-RWS-JBB

ORDER

Before the Court is Defendants Sharon Webb and Sgt. Steven Duttine's Motion for Summary Judgment. Docket No. 26. Plaintiff Daniel Gray, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this action under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. Docket No. 1. Plaintiff named Defendants Officer Sharon Webb, Sgt. Steven Duttine, Property Officer Rebecca Rust, Warden Bates, Warden Parker, Officer S. Thomas, and an unknown captain identified as Captain Doe in his complaint. *Id.* The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636.

Property Officer Rust was dismissed from the lawsuit on September 23, 2022. Docket No. 25. The Magistrate Judge then issued a report recommending dismissal of the Defendants Warden Bates, Warden Parker, Captain Doe, and Officer Thomas. Docket No. 43. The Magistrate Judge issued an additional report recommending that Defendants Webb and Duttine's motion for summary judgment be granted, all claims against them be dismissed, and they be dismissed as parties to the lawsuit. Docket No. 45. Plaintiff filed a motion for extension of time to file objections (Docket No. 46), a motion for leave to file an amended complaint (Docket No. 48), and a motion to

postpone summary judgment (Docket No. 50). The Court denied Plaintiff's motions for leave to file an amended complaint and motion to postpone summary judgment. Docket No. 51. The Court granted Plaintiff's motion for extension of time to file objections, giving Plaintiff 30 days from the date of receipt of the order. *Id.* Plaintiff received the order on July 8, 2023, but no objections to either Report have been filed. *See* Docket No. 52.

Because no objections have been received, Plaintiff is barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the reports of the Magistrate Judge are correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the reports of the Magistrate Judge (Docket Nos. 43, 45) are **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the motion for summary judgment of Defendants Webb and Duttine (Docket No. 26) is **GRANTED**. It is further

ORDERED that Plaintiff's claims against Defendants Webb and Duttine are **DISMISSED WITH PREJUDICE**. It is further

ORDERED that Plaintiff's claims against Defendants Warden Bates, Warden Parker, Officer Thomas, and Captain Doe are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.

So ORDERED and SIGNED this 25th day of August, 2023.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE